

City of Falls Church

Meeting Date: 01-28-13	Title: ORDINANCE PROVIDING VIDEO ENFORCEMENT OF LAW AGAINST PASSING STOPPED SCHOOL BUSES WITH THE ADDITION OF SECTION 26-20, "USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES, PENALTY." (TO13-03)-Revised	Agenda No.: 10 (a) (1)
Proposed Motion: Move to adopt (TO13-03)-Revised.		
Originating Dept. Head: John E. Foster, City Attorney		Disposition by Council: Passed on first reading 1-14-13
City Manager: Wyatt Shields 703.248.5004 FWS 1-24-12	City Attorney: John Foster. 703.248.5010 JEF 1-24-13	CFO: Richard A. La Condre 703.248.5092 RAL 1-24-13

REQUEST: Council is requested to approve (a) collection of recorded evidence of violations whereby motor vehicles do not stop for school bus stop signs, (b) use of cameras affixed to school buses as the method for collecting such evidence, (c) issue of citations to the registered owners of the vehicles shown by such recordings to have committed such violations, and (d) return proceeds from the fines imposed on the vehicle owners to Falls Church Public Schools, after crediting a percent of such proceeds to the city's general fund amounts equal to the costs incurred by the city in administering the video enforcement measures under this ordinance. This ordinance is before Council for 2nd reading.

RECOMMENDATION: Move adoption of (TO13-03).

BACKGROUND: Virginia Code § 46.2-844 provides a \$250 penalty for failing to stop for a stopped school bus, and permits each locality, by ordinance, to authorize the local schools to use a video-monitoring system in or on school buses to record such traffic violations. The ordinance may direct that any penalty levied for such violations be payable to the local public schools.

State Code Section § 46.2-844, in relevant part, provides:

A. The driver of a motor vehicle approaching . . . a clearly marked school bus which is stopped . . . for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear . . . is subject to a civil penalty of \$250 . . .

B. A locality may, **by ordinance**, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with any private vendor to do so . . . for the

purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division.

(emphasis added). On November 15, 16, and 19, 2012, the Falls Church Public Schools asked their school bus drivers to monitor and report cars that illegally passed City school buses while they were loading or unloading children. In that three-day period, the bus drivers observed 60 violations.

In consultation with the City police department, City schools, and Treasurer, the City Attorney recommends the adoption of the attached draft ordinance. It authorizes a system of video-based enforcement protecting the safety of children from motor vehicles that unlawfully pass stopped school buses that are loading and unloading children. The adoption of this ordinance is the necessary first step in a possible pilot program for video-based enforcement that the City schools may pursue at no cost to the City Schools or the City.

FISCAL IMPACT: \$0 – experience with such video-enforcement of school bus safety can be implemented without expense to the locality or school division.

TIMING: Immediate.

(TO13-03)-Revised

ORDINANCE PROVIDING VIDEO ENFORCEMENT OF LAW AGAINST
PASSING STOPPED SCHOOL BUSES WITH THE ADDITION OF
SECTION 26-20, “USE OF PHOTO-MONITORING SYSTEMS TO
ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES,
PENALTY.”

THE CITY COUNCIL OF THE CITY OF FALLS CHURCH, VIRGINIA,
HEREBY ORDAINS as follows:

Chapter 26
MOTOR VEHICLES AND TRAFFIC
Article I. In General

~~Sec. 26-20. Truck traffic.~~

Sec. 26-20. Use of photo-monitoring systems to enforce law against passing stopped school buses, penalty.

(a) For purposes of this ordinance, “school division” means the Falls Church City Public Schools. “Video-monitoring system” means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital

and recorded video of motor vehicles being operated in violation of Code of Virginia, § 46.2-859.

(b) All such video-monitoring systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia, § 46.2-1090, and the time, date, and location of the vehicle when the image is recorded. ~~At least one recorded image shall be of the vehicle before it has illegally passed the stopped school bus, and at least one recorded image shall be of the same vehicle after it has illegally passed that school bus.~~

(c) The operator of a vehicle shall be liable for a monetary civil penalty imposed in accordance with this ordinance, if such vehicle is found, as evidenced by information obtained from a video-monitoring system, to have failed to comply with Code of Virginia, § 46.2-859.

(d) The school division may install and operate a video-monitoring system on any school bus operated by the division for the purpose of recording violations of Code of Virginia, § 46.2-859 and imposing monetary liability in accordance with Code of Virginia, § 46.2-844.B and the provisions in this ordinance.

(e) The school division may also contract with a private vendor to install and operate such video-monitoring systems on behalf of the school division for the same purposes.

Such agreement shall:

~~(1) Specify the number and type of video-monitoring systems to be installed as well as methods of installation, operation and maintenance and expected costs;~~

(1) Ensure adequate and proper retrieval, storage, and disposal of video-monitoring system recordings in accordance with this section;

(2) Specify the appropriate format, method and frequency of delivery of video recordings to designated and duly authorized law enforcement officers;

~~(3) Provide that the school division shall use a certain portion of the amounts remitted by the city treasurer in accordance with section (13) below to compensate the vendor the for the expense of monitoring services and vendor equipment costs and for reimbursement of costs incurred in installing operating, and maintaining the monitoring systems~~ vendor shall, ~~on an annual basis,~~ on request of the City or the school division, submit a report to the City and the school division that includes, but is not limited to: (i) the total number of citations issued as a result of a violation detected and recorded by the monitoring system, and (ii) the total amount of funds collected.

(f) Information collected by a video-monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school bus stopping violations. Notwithstanding any other

provision of law, all images or video or other personal information recorded by a video-monitoring system shall be used exclusively for enforcing school bus stopping violations pursuant to this ordinance, and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a school bus stopping violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of §§46.2-859 or 46.2-844 of the Code of Virginia, or is requested upon order from a court of competent jurisdiction.

(g) Information collected under this ordinance pertaining to a specific violation shall be purged and not retained later than 60 days after the conclusion of any enforcement action based upon such violation. If an authorized law enforcement officer does not issue a summons or notice of violation within 10 business days of the date on which the violation of this section was recorded, all information collected pertaining to that suspected violation shall be purged.

(h) The school division shall annually certify compliance with this ordinance, and shall make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.

(i) Violations of the foregoing sections shall carry a civil penalty of not more than \$250 and shall be prosecuted in the same manner as prosecutions for traffic infractions. Such violations shall not be deemed a conviction as an operator and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall such violations be used for insurance purposes in the provision of motor vehicle insurance coverage.

(j) Whenever a violation of Code of Virginia, § 46.2-859 is detected and recorded by a video-monitoring system operated in accordance with this ordinance, the vendor or school division shall promptly submit the recorded video to a law enforcement officer employed by the city and authorized to impose penalties pursuant to this ordinance for review. If, after such review, such law enforcement officer determines that there are reasonable grounds to believe that a violation of Code of Virginia, § 46.2-859 has occurred, the officer may issue a summons or notice of violation by first-class mail to the address of the registered owner of the vehicle involved as shown on the records of the Department of Motor Vehicles.

(k) Any person who receives a summons or notice of violation from a law enforcement officer pursuant to this ordinance may waive his right to appear and be formally tried for the offense pursuant to Code of Virginia, § 16.1-69.40:1.B. The waiver shall be effective when the person voluntarily pays \$250.00 to the city treasurer's office within 15 business days after receipt of the summons or notice of violation.

(l) In any prosecution pursuant to this ordinance, proof that the vehicle described in such summons or notice was operated in violation of this ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by

Chapter 6 (§ 46.2-600 et seq.), shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. A photographic or digital still or video image recorded by a video-monitoring system that clearly shows the license plate number of a vehicle violating Code of Virginia, § 46.2-859 shall be sufficient proof of the identity of such vehicle for purposes of this ordinance.

(m) Notwithstanding the exception in Code of Virginia, § 46.2-1308, all fines imposed for violations of this ordinance, shall be paid into the city treasury. The city treasurer shall remit to the school division all fine amounts received in respect to the violations of this section after crediting the city's general fund **for all with amount equal to the** costs incurred in administering the video enforcement measures under this ordinance.

(n) Prosecution under this ordinance, shall not be permitted where a prosecution or proceeding for the same act has otherwise been initiated under Code of Virginia, § 46.2-859.

Sec. 26-21. Truck traffic.

(a) *Intent.* It is....

~~Sec. 26-21~~ **Sec. 26-22. Parking in time-limited parking zones.**

~~Sees. 26-22~~ **Secs. 26-23** -- 26-43. Reserved.

This ordinance shall become effective immediately upon final passage.

1st Reading: 1-14-13

2nd Reading: 1-28-13

Adoption: _____

(TO13-03)